IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
Writ Petition No.7898 of 2005

Shilajeet Tiwari & ors. Petitioners

Vs.

Property Guards Security Services
Pvt. Ltd. & ors. Respondents

Mr.V.P.Patil for petitioners.

Mr.Sajal Biswas for resp.no.1.

Mr.Abhay Nevagi and Mr.Yogesh Paranjape i/b.
M/s.Paras Kuhad & Associates for respondent no.2.

Mrs.Lata Desai with Ms.Passavi Divekar for resp.no.3.

CORAM: B.H.MARLAPALLE, J.

December 7, 2007.

P.C.

. Heard Mr.Patil, the learned counsel for the petitioners who are security guards employed by the Respondent no.1 i.e. M/s. Property Guards Security Services Pvt. Ltd.

. It appears at the relevant time they were placed at the premises of the respondent no.2 - National Textile Corporation Ltd. They approached the Labour Court in Complaint (ULP) No.202 of 2005 under Item 1 of Schedule IV read with Section 28 of

the MRTU and PULP Act, 1971 and they claimed that they had apprehended their termination of service from 1/7/2005 on the basis of the oral information given to them. In the said complaint an application for interim relief under Section 30(2) was filed and the same was allowed by the learned Judge of the Labour Court on 21/7/2005 thereby restraining by way of interim injunction the Property Guards from terminating their services. The Court further went on to direct the NTC to restrain it by way of interim injunction from engaging security guards from outside except through the Respondent No.1 or with the permission of the Security Guards Board.

. Being aggrieved by this order passed by the Labour Court on 21/7/2005, NTC approached the Industrial Court in Revision Application (ULP) No.197 of 2005 under Section 44 of the Act and the said revision has been allowed by the Industrial Court to the extent of the injunction order against NTC. Remaining part of the restraining order passed by the Labour Court against the respondent no.1 has remained untouched and, therefore, the services of the petitioners have been protected so far as their employer is concerned.

. The learned Member of the Industrial Court noted that there was no employer-employee relationship between the petitioners and NTC when admittedly they were engaged by NTC through the Security Services Contractor i.e. the respondent no.1 and, therefore, prima facie, the complaint was not maintainable against NTC. There is no denial of the fact that the petitioners are the employees of the respondent no.1 and they could seek restraining orders only against their employer and this part of the order has been kept in-tact by the Industrial Court. The restraining order passed against NTC was prima facie, without jurisdiction and therefore, the Industrial Court rightly stepped in to correct the error committed by the Labour Court.

. Hence the impugned order passed by the Industrial Court does not call for any interference under Article 227 of the Constitution. Petition is rejected summarily.

(B.H.MARL